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6 **Attorney for Movant**

7 Wells Fargo Bank, N.A. Successor by merger to Wells Fargo Bank Southwest, N.A. formerly  
8 known as Wachovia Mortgage FSB, formerly known as World Savings Bank, FSB.

9 **UNITED STATES BANKRUPTCY COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 In Re: ) Case No.: 10-11914  
12 Sergio H. Garcia, )  
13 Debtor, ) DCN: KH-253  
14 ) Chapter 7  
15 Wells Fargo Bank, N.A. Successor by merger )  
16 to Wells Fargo Bank Southwest, N.A. formerly ) MOTION FOR RELIEF FROM  
17 known as Wachovia Mortgage FSB, formerly ) AUTOMATIC STAY; ACCOMPANYING  
18 known as World Savings Bank, FSB, ) DECLARATIONS; MEMORANDUM OF  
19 ) POINTS AND AUTHORITIES  
20 )  
21 Movant, ) Notice of Hearing Issued:  
22 vs. ) June 4, 2010  
23 )  
24 ) Date of Hearing: June 24, 2010  
25 ) Time of Hearing: 9:00A.M.  
Sergio H. Garcia, ) Court: First Floor  
Debtor/Respondent. )  
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26 **TO THE HONORABLE JUDGE OF THE UNITED STATES BANKRUPTCY**  
27 **COURT, NORTHERN DISTRICT OF CALIFORNIA:**

28 This is a Motion for Relief from the Automatic Stay pursuant to 11 U.S.C. § 362(d),  
29 whereby Movant requests an Order from this Court granting relief from the automatic stay, and  
30 in support thereof alleges as follows:

- 1           1. On or about May 19, 2010 the above named Debtor herein referred to as “Debtor”,  
2           commenced a proceeding under Chapter 7 of the United States Code in the  
3           Bankruptcy Court of the Northern District of California, Case No. 10-11914.
- 4           2. Wells Fargo Bank, N.A. Successor by merger to Wells Fargo Bank Southwest, N.A.  
5           formerly known as Wachovia Mortgage FSB, formerly known as World Savings  
6           Bank, FSB (herein referred to as “Movant”), is the owner of those real property  
7           premises commonly known as 1061 W. Cottage Place, Santa Rosa, CA 95401 (herein  
8           referred to as “Premises”).
- 9           3. On or about May 3, 2010 Movant purchased the Premises at a Trustee’s Sale. Title to  
10          the Premises was recorded on May 12, 2010. A copy of the recorded Trustee’s Deed  
11          upon Sale is attached hereto as “Exhibit 1.”
- 12          4. On or about May 19, 2010, the automatic stay took effect prohibiting, among other  
13          things, the commencement of any legal proceedings by the Movant in State Court to  
14          recover possession of the subject Premises, to recover costs, to recover monies owed  
15          or other related charges due and owing on the subject premises.
- 16          5. There is cause for relief from stay pursuant to 11 U.S.C. § 362(d) in that the Movant’s  
17          interest in the real property is not and will not, be adequately protected if the stay is  
18          allowed to remain in full force and effect. The Movant will suffer continuing loss  
19          each day that the Debtor is allowed to remain in possession of the subject premises  
20          without paying any money to remain in possession of the premises in that the Movant  
21          must continue to make tax and insurance payments on said property, while being  
22          deprived of possession and/or profits and income derivable therefrom.
- 23          6. There is cause for relief from stay pursuant to 11 U.S.C. § 362(d) in that the Debtor  
24          does not have any interest in the subject premises, and such property is not subject to  
25          Debtor’s asset liquidation.

7. The Debtor has failed to vacate the premises after the lawful termination of the Debtor's ownership interest, and has no right to continue in lawful possession of the subject Premises.

WHEREFORE, the Movant respectfully requests the following relief:

A. That the automatic stay of 11 U.S.C. § 362(d) be terminated with respect to the subject Premises located at 1061 W. Cottage Place, Santa Rosa, CA 95401 so as to allow Movant to continue unlawful detainer proceedings in State Court.

B. That the Court waives the 14-day stay provided by Bankruptcy Rule 4001(a) (3).

C. That the Court award Movant reasonable attorney's fees and costs in connection with the making of this Motion; and,

D. For such and further relief that this Court may deem just and proper.

DATE: June 3, 2010

/s/ Kevin Harris  
Kevin Harris, Attorney for Movant  
351 St. Mary Street  
Pleasanton, CA. 94566